

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Dave Cogdill
Alan Lowenthal



Agenda Part II

Day: Thursday, April 8, 2010
Time: 9:30 am or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$13.9 billion (\$83 million General Fund) and 21,513 positions, an increase of about \$100 million and a decrease of 44 positions over the revised current-year budget. For comparison purposes, Administration is not distributed by program in 2010-11 as it is in the Governor's Budget.

April 1 Finance Letters: On April 1, the Administration requested ten budget revisions that would on net increase Caltrans staffing by 13 positions and reduce expenditures by \$12 million. With two exceptions, these April 1 issues are not included in this agenda and will be heard later. The two exceptions are an April 1 request related to bridge inspections and the Americans with Disability Act (ADA) lawsuit – since these topics overlap with two January proposals they are included here so the January proposals can be considered in a more complete context.

Issues on today's agenda: The Subcommittee heard transportation issues on March 11; however, there was not time at that hearing to complete all issues related to Caltrans. Most of the issues on this agenda are those remaining Caltrans issues, with some minor clarifications or additions where the Administration has provided additional detail and with the addition of two April 1 Finance Letter issues.

Issues proposed for Discussion and Vote:

- 1. Zero-Based Workload Part I: Capital Outlay Support (LAO Issue).** The Analyst reviewed the Capital Outlay Support (COS) program at Caltrans and indicates the cumulative evidence suggests that the program is overstaffed and lacks strong management. COS is a \$2 billion program within Caltrans with about 12,000 personnel year equivalents of staffing and contract resources (about 90 percent state staff and 10 percent contract staff). The COS program provides the support needed to deliver highway capital projects, including completing environmental reviews, designing and engineering projects, acquiring rights of way, and managing and overseeing construction.

LAO Findings: The LAO report (which is available at www.lao.ca.gov) makes the following findings:

- The workload that is assumed in the department's annual COS budget request has not been justified.
- Although comparisons are difficult, Caltrans appears to be incurring significantly higher costs for COS activities than similar agencies.
- Comparisons of one Caltrans region to another suggest that COS staffing in at least some regions is excessive. There appears to be little relationship between the number of positions in a region and the size of its capital program.
- The imposition of furloughs on Caltrans COS staff appears to have had no identifiable impact on its productivity, further suggesting that the department is over staffed for these activities.
- A review of a sample of Caltrans projects showed that COS costs regularly exceeded the norm, often by a considerable margin.
- Caltrans lacks systems and processes to manage and control COS costs.

LAO Recommendations: The LAO report makes the following recommendations:

- Adopt statutory language to require Caltrans to provide additional COS workload information beginning with the 2011-12 budget.
- Caltrans should adopt cost controls for COS and report at the hearing the steps the department is taking to control costs.
- The Bureau of State Audits (BSA) should audit Caltrans staff charging of work hours to projects to determine if these records are accurately kept.
- Reduce COS by 1,500 position equivalents (state positions and contract resources). This LAO recommendation is subject to change if the Administration is able to provide workload justification for additional staff resources.

Staff Comments: The LAO review raises serious concerns about the Department's ability to estimate staffing needs and manage resources. Caltrans was not able to reconcile their 2009-10 staffing request to workload data, nor could they provide the LAO with a full explanation of how workload is modeled to produce the staffing estimates. In the absence of any department methodology, the LAO used several proxy measures to estimate total workload and found baseline staff resources

should be reduced from about 12,000 to about 10,500, which would reduce costs by approximately \$200 million.

Staff Recommendation:

- Hold issue open.
- For the 2010-11 budget, request that the Administration works cooperatively and openly with the LAO and Legislative Staff as it develops its May Revision COS budget for 2010-11. An ongoing challenge with the May Revision workload adjustment is that it does not allow sufficient time for Legislative review as each house only has a week or two to act after the May Revision. The Administration should share their COS estimates in early April to allow a full review.
- For the 2011-12 budget, direct staff to work with the LAO and Administration this spring to develop statutory language that would specify necessary project detail to accompany the 2011-12 COS budget request so the request can be transparent and justified. Future COS requests should be based on solid data and defensible estimates – not unexplainable Caltrans estimates or LAO proxy estimates.

- 2. Zero-Based Workload Part II: Civil Rights, Legal, and Information Technology (2009 Budget Act report).** The 2009 Budget Act included language requiring Caltrans to *provide the Legislature information explaining and justifying the workload for the department's legal, information technology, administrative, and civil rights activities for all the department's program.* The report was provided for all the areas except administrative. The Department is proposing to change the administrative budget to "distributive administration" which will result in additional detail as centralized administration will be distributed to the individual program areas in proportion to work performed for each.

Detail from Report: Caltrans outlines staffing and workload for the three programs in the report. The approach the department took was to allocate existing staff to a specific task or activity, based on the activities that people currently perform. So current staffing exactly matches current workload. However, this is not truly a "zero-based" staffing analysis that would define workload first and then rebuild the staffing need from zero. The report includes the baseline budget staffing and funding for each program as follows (in millions):

Area	Personnel Years	Personnel Service Budget	Operating Expense Budget	Total Funding
Civil Rights	58.5	\$4.3	\$1.9	\$6.3
Information Technology	630	\$47.2	\$2.3 (employee related) \$33.3 (IT infrastructure)	\$82.7
Legal	293.6	\$31.3	\$5.9 (employee related) \$83.0 (tort and consultant)	\$88.9

Staff Comment: This exercise indicates the challenge of zero-based budgeting. Ideally, departments should periodically review workload as it will change in an individual area due to, in these cases, such things as number of lawsuits, number of servers and newness of software for users, and number of contracts to review annually for Disadvantaged Business Enterprise (DBE) program compliance. Such periodic workload analysis might suggest the need for either a staffing augmentation or a staffing reduction.

Staff Recommendation:

- Hold open.
- Ask Caltrans to report back at a future hearing with updated information that would tie all the workload in each area to a relevant workload driver such as number of staff per lawsuit, number of civil rights staff per contract, etc.
- Direct LAO and staff to continue to review the reports and bring back recommendations for staffing adjustments if warranted.

- 3. Budget Savings from Executive Orders Part I: Operating Expenses and Equipment.** The Governor has issued Executive Orders (EOs) to direct departments to generate budget savings from reduced operating expenses and equipment (OE&E) expenditures. However, those savings for 2009-10 and 2010-11 are generally not built into department budgets. Caltrans OE&E for the adopted 2009-10 budget was about \$2.1 billion.

Executive Order S-09-09 issued June 8, 2009, required departments to submit a plan to reduce new contracts, extended contracts, or purchases from statewide master contracts in 2009-10 by at least 15 percent. Caltrans's adopted plan applied the 15 percent amount to the non-exempted amount of \$47 million to generate savings of \$7.1 million.

Executive Order S-14-09 issued July 17, 2009, prohibited departments from purchasing vehicles for non-emergency use, required a 15 percent reduction to fleets, and reduces vehicle home storage permits by 20 percent. Caltrans's adopted plan reduces the light duty fleet by 426 vehicles and reduces home-storage permits by 330. Caltrans does not anticipate any ongoing savings from this EO. The revenue from selling California's fleet vehicles was discussed with the Department of General Services as part of the March 11, 2010, Subcommittee #4 hearing.

Other Caltrans Savings: Despite the relatively modest savings associated with these EOs, Caltrans indicates it has been aggressive in reducing travel, training, information technology purchases, and other such costs that have reduced OE&E costs by a full 10 percent. About \$220 million was saved in this manner in 2008-09, and is reflected in the January Governor's budget as savings in the past year. Many of these savings measures are still in place and Caltrans anticipates significant savings in both 2009-10 and 2010-11. However, no savings is currently reflected in the Caltrans budget for 2009-10 and 2010-11.

Staff Comment: Staff has been working with the department to determine the nature of the 2009-10 savings to understand how much of this can be continued, but the department has been unable to provide many specifics. If some reasonable level of savings can be estimated and scored, the budget would be more accurate and transparent and additional funding would then be available for new maintenance or State Highway Operations and Protection Program (SHOPP) expenditures.

Staff Recommendation: Adopt a placeholder action that would score savings of \$100 million in 2009-10 and \$100 million in 2010-11. Direct staff to continue to work with Caltrans to determine a reasonable amount of savings – derived from existing Caltrans action – that can be scored. Direct staff to work with the Administration on a highway maintenance and/or SHOPP augmentation with the savings, which would improve California's infrastructure and create new construction jobs.

- 4. Budget Savings from Executive Orders Part II: Workforce Cap.** The Governor issued Executive Order S-01-10 on January 8, 2010, requiring all State agencies and departments to submit a plan to achieve an additional five percent in salary savings. The Legislature recognized these savings in the 8th Extraordinary Session actions and scored the General Fund salary savings of \$450 million in AB X8 2. Since related OE&E savings will accompany personnel service savings, AB X8 2 included additional saving of \$130 million General Fund. The EO requires departments to submit their workforce cap plans to the Department of Finance and the Department of Personnel Administration by February 1, 2010. The EO requires departments to begin implementing their plans by March 1, 2010.

Caltrans Workforce Cap Plan: On March 24, Caltrans provided the subcommittee staff some initial information on the department's workforce cap plan. The required Caltrans reduction is \$80.6 million. Caltrans indicates that in August 2009, it reduced its use of Retired Annuitants from 400 to 81, and in September 2009, it eliminated student assistants. The department has curtailed hiring to increase vacancies and generate salary savings.

Staff Comment: While some information has been provided, there is no detail by program or by fund, and no report of impact of the reductions. The department should outline for the subcommittee any anticipated delay in transportation projects, maintenance, or other activities. Caltrans should also indicate if the workforce cap plan will result in any changes to other Administration budget proposals. For example, April Finance Letter #7 requests five new positions to meet bridge inspection schedules – with the workforce cap, will the Administration still realize a net increase in staffing for inspections, or will the new positions merely be held vacant to meet the required savings?

Staff Recommendation: Hold open for further review.

- 5. Inspection and review of state bridges (BCP #16 & April FL #7).** In BCP #16, the Administration requests to absorb new workload for load rating of State bridges by: (1) redirecting 9 positions that provide engineering support for toll bridge traffic operations in the San Francisco Bay Area; and (2) shifting \$1.3 million from the litter pickup budget. The load rating determines the weight or load of vehicles that a bridge can safely carry. The 9 new bridge positions would complete a new load rating assessment of 6,800 State bridges over a ten-year period to comply with new federal requirements. In April FL # 7, the Administration requests 5 new positions and \$868,000 special funds and federal funds to add staff for physical inspection of bridges. This backfills for staff redirected to do the more-frequent review of the San Francisco-Oakland Bay Bridge, and to recognize new federal requirements and the state's aging infrastructure. The request also includes a redirection of about \$4.8 million in federal bridge funds from local apportionment to state inspections. State funds would be reduced by a net of \$1.2 million

Detail on Request: New load ratings are not required for all State bridges – for example, excluded are those designed to current standards (designed since 1976), and bridges that do not carry vehicular traffic. For the 6,800 bridges in question, the existing load ratings were developed with older computer modeling that did not include all bridge design data and the base load rating cannot be verified or updated with the existing system. The requested positions in BCP #16 would review bridge records, perform a new load rating with new software, and write a summary report for each bridge. The requested positions in FL #7 would perform the physical inspection of bridges. With this request, Caltrans indicates it would have 120.7 personal years to complete bridge inspections.

Past Legislative Hearings: On January 12, 2009, the Subcommittee held a joint hearing with the Senate Transportation and Housing Committee, and Senate Select Committee on Bay Area Transportation, and the Assembly Transportation Committee, on the topic of *2009 San Francisco-Oakland Bay Bridge Closures and Related Bridge Safety Issues*. Today's hearing is a good opportunity to hear an update from Caltrans.

LAO Recommendation: The Analyst recommends the Administration look at alternatives that would allow the load-rating work to be completed more expeditiously (instead of over 10 years). For instance, Caltrans could contract out some of the work, or assign more State staff to the task in order to complete the work sooner.

Staff Comment: Caltrans should explain why the 9 positions performing engineering support for toll bridges are no longer needed, and why this funding request is from redirected litter clean-up instead of a net funding augmentation. Caltrans should explain why 10 years is an acceptable length of time to perform these safety load ratings – instead of a quicker implementation as suggested by the LAO.

Staff Recommendation: Keep issue open for further analysis of alternatives that would result in a more rapid completion of new safety assessments of state bridges.

6. **Americans with Disabilities Act (ADA) Lawsuit (BCP #16 and April FL #9).** In BCP #16, the Administration requests one-time funding of \$8.5 million (State Highway Account) to pay attorneys' fees in the ADA lawsuit that was settled in December 2009. The request indicates that the exact amount of the payment is still undetermined, but the settlement agreement sets it between \$3.5 million and \$8.5 million. Final court approval of the settlement agreement is expected in April or May of this year. In April FL #9, the Administration requests \$3.6 million in 2010-11 and 391,000 in 2011-12, to establish three limited-term positions and contract out to implement a transition plan and self evaluation plan and to develop long-term strategies for sustaining ADA compliance within the Department.

Detail on ADA expenditures: While the budget request only deals with the one-time attorneys' fees, it should be noted the settlement includes agreement from the Administration to spend \$1.1 billion over 30 years to make sidewalks and other pedestrian facilities ADA-compliant. The settlement defines minimum expenditures per year as follows:

- Baseline funding is about \$10 million per year.
- Funding would increase to \$25 million per year beginning in 2010-11.
- Funding would increase to \$35 million per year beginning in 2015-16.
- Funding would increase to \$40 million per year beginning in 2025-26.
- Funding would increase to \$45 million per year beginning in 2035-36.

This funding would be accomplished within the State Highway Operations and Protection Program (SHOPP) funding and Maintenance funding as applicable.

Staff Comment: Since the funding for increased ADA investments is part of the SHOPP item, no action is necessary for the actual road projects. The BCP request to the Legislature only relates to attorneys' fees. It should be noted that the 2009-10 budget includes new funding of \$20 million to fund tort obligations – this was requested by the Governor in an April Finance Letter and approved by the Legislature. Caltrans should attempt first to absorb the cost of attorneys' fees within its current-year legal funding level. If the Subcommittee keeps this item open, the Department should report in May on its ability to absorb this one-time cost within the legal allocation.

LAO Recommendation: The Analyst recommends holding the legal-fees item open until May, by which time the court is expected to decide the specific amount of attorney's fees that Caltrans will owe.

Staff Recommendation: Hold open the both BCP #16 and FL #9 issue so the Subcommittee can consider the request with more complete information in May.

- 7. Cap on Tort Payments (BCP #18).** The Administration requests trailer bill language to place a \$250,000 per individual, and a \$500,000 per occurrence, cap on the amount of the non-economic damages that can be awarded against the State in a tort action. Additionally, the Administration requests language to limit the State's liability for economic damages to "several only and not joint." This means that if there are several parties at fault, including Caltrans, the department would only be responsible for its proportional or comparative fault and not have to compensate beyond that level (in the situation where other guilty parties had insufficient economic resources to fund their share of the payment). The Governor's proposed budget does not assume any savings from this proposal; however, Caltrans estimates they might see annual savings of approximately \$28 million based on past litigation.

Detail on Caltrans' Total Liabilities: The historic tort budget funding and actual expenditures (in millions) are outlined in the following table.

	Budget Funding	Actual Expenditures	Shortfall
2000-01	\$41.4	\$65.1	\$23.7
2001-02	41.4	62.4	21.0
2002-03	41.4	37.5	-3.9
2003-04	41.4	32.7	-8.7
2004-05	41.4	50.3	8.9
2005-06	41.4	66.7	25.3
2006-07	53.6	51.5	-2.1
2007-08	53.6	72.9	19.3
2008-09	53.6	68.8	15.2
2009-10*	73.6	73.6	0
2010-11*	73.6	73.6	0

* Estimate

Staff Comment: While there are Caltrans budget benefits from this request, there are policy implications that are not fully detailed in the Administration's request. This issue may benefit, and time should allow, for this issue to be heard and discussed in policy committees, such as the Judicial Committee, where the full range of issues to consider would be brought to light.

LAO Recommendation: The Analyst recommends that the Legislature evaluate the proposal on a policy basis rather than as apart of the budget process.

Staff Recommendation: Reject this request and suggest proponents pursue the policy process so the implications of this proposal can be more fully understood.

Vote: